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IN THE

Supreme Court of the United States

OCTOBER TERM, 1965

No. [redacted] 98

MATILDA ROUMANIA WALKER, *Petitioner*

v.

EDITH CECILIA FOSTER, ET AL., *Respondents*

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA

MATILDA ROUMANIA WALKER and
JAMES WALKER
2710 O Street, N. W.
Washington, D. C., 20007
Pro Se

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1964

No.

MATILDA ROUMANIA WALKER, *Petitioner*

v.

EDITH CECILIA FOSTER, ET AL., *Respondents*

MOTION FOR LEAVE TO FILE A PETITION FOR A WRIT OF CERTIORARI AND REQUEST THAT HUSBAND ALSO SPEAK FOR HER AND/OR REPRESENT HER AND/OR ACT AS ATTORNEY-IN-FACT FOR HER

Petitioner Matilda Roumania Walker hereby begs leave to file this Petition for a Writ of Certiorari and humbly requests that her husband James Walker also speak for her and/or represent her and/or act as attorney-in-fact for her on this and any and all causes.

Respectfully submitted,

MATILDA ROUMANIA WALKER and
JAMES WALKER

IN THE

Supreme Court of the United States

OCTOBER TERM, 1964

No.

MATILDA ROUMANIA WALKER, 2710 O Street, N. W., Washington, D. C., *Petitioner*

v.

EDITH CECILIA FOSTER, 1636 15th Street, N. W., Washington, D. C.,

RUTH MARGARET PETERS, 1838 Belmont Road, N. W., Washington, D. C.,

MARY ALICE BRANCH, 4435 Texas Avenue, S. E., Washington, D. C.,

MARGARET VERA PETERS, 2719 O Street, N. W., Washington, D. C.,

Respondents

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA

JURISDICTIONAL STATEMENT

Jurisdiction for this cause is invoked under Articles in addition to and Amendments to the Constitution of the United States: Article VII; and Article XIV, Section 1 (. . . . . deprived of property without due process of law); Title 28, Section 1254(1) United States Code, and the general equity powers of the Court.

STATEMENT OF CASE

The case was filed by Respondent Edith Cecilia Foster in the District Court for the District of Columbia October 1, 1964. On October 19, 1964, the Petitioner answered the Complaint and made a demand for a jury trial. On October 30, 1964, the Respondent made a motion for a Summary Judgment. The Petitioner filed objections to the motion for the Summary Judgment November 8, 1964, reiterating the demand for a jury trial pursuant to Rule 38 of the Federal Rules of Civil Procedure. The hearing for the Respondent motion on the Summary Judgment was held November 23, 1964 before the Honorable Judge Tamm. He sustained the Summary Judgment, Order being signed December 2, 1964. On December 14, 1964, the Petitioner filed the Notice of Appeal. On January 14, 1965 the case was docketed in the United States Court of Appeal. On March 11, 1965, the appeal was dismissed. On March 30, 1965, a motion was granted to the Petitioner for transmitting the record to the Supreme Court.

STATEMENT OF POINTS

1. To be denied a jury trial is a violation of the Petitioner's Constitutional Right. Federal Rule of Civil Procedure No. 38; 14th Amendment to the Constitution (. . . . due process of law).

2. The mother, Fannie Peters had ownership in the property; therefore her expressed wishes that it remain always in the family must prevail.

3. The Petitioner having represented herself in Civil Actions 1017-68 and 2813-61, should not be charged for any Attorney fees incurred by the Respondents for the same representation.

4. It is a right of the Petitioner to occupy the property without paying rent. *Allan* v. *Jones* (1926), 12 F 2nd 186, 56 App. D.C. 245.

SUMMARY OF ARGUMENT

When the Honorable Judge Tamm asked what the issues were in the case, he was informed to this effect:

1. Self representation. (being forced to pay attorney fees for a representation that you are making yourself is a denial of self representation).

2. Constitutional right of a jury trial.

3. Prior demand of a jury trial vacates or estops any subsequent Order.

4. Determination of mother's wish—estate not probated after mother's death.

5. Determination of contribution to mother. (Funeral expenses, medical care, living expenses).

6. Usage of house for storage by Petitioners, possession of key to come and go at will.

7. Estopped from initiating this action prior to seeking a voluntary partition.

ARGUMENT

1. Should There be a Jury Trial?

The answer is unequivocally yes. The Constitution of the United States is unmistakably clear that a jury trial remains inviolate. As the Respondents constantly raise the issues about paying rent and attorney fees, the amount of money far exceeds the amount imposed by the Constitution for a jury trial. The Petitioner has paid an "improper fractional" part of the taxes. The Petitioner has made permitted repairs on the property.

2. Did the Mother Have Ownership in the Property?

The mother, Fannie Peters had ownership in the property, having survived her husband by fifteen years who with his wife had occupied the property for twenty-five years; thereby, giving Fannie, the loving wife and devoted mother an occupancy for at least forty (40) years.

To say that the wife had only a widow's interest in the property would imply that the children could inherit only the right to occupy the property as the widow had the right, for life. Moreover, the widow had more than a dower right; she had ownership per se; therefore, with her expressed wish that the property remain in the family always, also prevents a partition of the property.

It is evident then that the only way the property may be sold is when there is only a sole surviving heir. Therefore the property cannot be partitioned at the present time. Moreover, if the property could be partitioned at the present time, the action of the Respondents is estopped for their failure to seek a voluntary partition at first.

Respectfully submitted,

MATILDA ROUMANIA WALKER and
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